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30 June 2004

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington D.C. 20554

Re: WCB Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

On Tuesday, January 29, 2004, the undersigned, together with representatives of the Operating Board of ALTS<sup>1</sup>, made separate *ex parte* proceedings to the following Commission staff members in the above-referenced dockets:

- (1) Matt Brill, Office of Commissioner Abernathy
- (2) Christopher Libertelli and Aaron Goldberger, Office of Chairman Powell
- (3) Jessica Rosenworcel, Office of Commissioner Copps
- (4) Dan Gonzalez, Office of Commissioner Martin
- (5) William Maher, Chief; Marcus Maher, Jeremy Miller, Wireline Competition Bureau.

In each of these separate meetings, ALTS made the following arguments:

- (1) The Commission must act expeditiously to protect consumers and small businesses against the imminent threats from incumbent LECs to raise rates, or even discontinue services, to competitive LECs. Although the incumbent LECs have made limited commitments related to UNE-P, those commitments do not

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<sup>1</sup> Attendees at some or all of the meetings included: Praveen Goyal, Covad; Josh Brobeck, Swidler, Berlin; Pat Donovan, Swidler, Berlin; Tony Mastando, ChoiceOne; Jeff Oxley, Eschelon; Marva Johnson, KMC; Jake Jennings, NuVox; Russ Merbeth, Eschelon; Wanda Montano, US LEC; Scott Sawyer, Conversant; Penny Bewick, New Edge Networks; Julia Strowe, Cbeyond; Heather Gold, The KDW Group; Rich Rindler, Swidler, Berlin.

adequately protect the ability of facilities-based providers to continue offering service to their customers while the Commission completes its remand proceeding. ALTS asked the Commission to ensure that such interim protection as the Commission sees fit to adopt preserve access, without true-up, to existing and new arrangements, during the short pendency of the Commission's rulemaking proceeding. Such protection will prevent the Bell companies from disconnecting services, or otherwise arbitrarily increasing prices, for even those elements for which the Commission will maintain an unbundling obligation. The Commission must take steps to avoid incumbent LEC gamesmanship by ensuring that such interim protection applies to all UNEs. In addition, the Commission must prevent the incumbent LECs from claiming that such interim protections are not available to competitive carriers with interconnection agreements in evergreen status, or otherwise expired, or cancelled by the incumbent, or offered through tariffs, or similar such tactics.

- (2) The Commission should not adopt its tentative conclusion in the so-called "pick and choose" NPRM and reverse its prior conclusion that competitive carriers are entitled, pursuant to the plain of language of section 252(i) of the Act, to opt-in to specific portions of interconnection agreements. Such a reversal carriers benefits solely for incumbents, not competitive carriers, as evidenced by the record before the Commission.
- (3) The Commission should not grant the relief requested by BellSouth in its Reconsideration Petition in the Triennial Review docket. Specifically, the Commission should not extend its fiber-to-the-home relief to businesses in multi-dwelling units, nor should the Commission permit the incumbent LECs to deny access to TDM-capable loops simply because the incumbent has deployed packet capabilities in its network.

Respectfully submitted,

/s / Jason Oxman

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